HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

C.R.2868 of 2005
Date of decision : 30.10.2006.

Smt.Rajpati .....Petitioner
versus
Smt.Piyari and others .....Respondents

CORAM : HON'BLE MR. JUSTICE HEMANT GUPTA.

Present : Mr.Saurabh Dalal, Advocate for the petitioner.
Mr.R.K.Hooda, Advocate for the respondents.

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ORDER

HEMANT GUPTA, J. (Oral)

The challenge in the present revision petition is to the order dated 4.1.2005, passed by the learned First Appellate Court, whereby an application filed by the petitioner for permission to sue as an indigent person, was declined.

The learned First Appellate Court has relied upon the report of the Collector to hold that the family of the petitioner is earning a sum of Rs.10,000/- per year and has 17 kanals and 3 marlas of land. It has been argued that it cannot be pointed out that the petitioner is earning any income and that she is owner or in possession of any land. Therefore, the income of the family members of the petitioner has been wrongly taken into consideration to hold that the petitioner is in possession of sufficient means. The earning capacity of the petitioner as an adult has to be considered independently and not on the strength of income of her family members. In fact, that is the view taken by this Court in **1993 (3) Recent Revenue Reports-202, Miss Baljit Kaur versus State of Punjab**.

In view of the above, the order passed by the learned First Appellate Court, dated 4.1.2005 is set-aside. Petitioner is permitted to sue

as an indigent person. The appeal shall be decided by the First Appellate Court in accordance with law.

Parties through their counsel are directed to appear before the learned First Appellate Court on 4.12.2006.

Revision petition stands disposed of accordingly.

(HEMANT GUPTA)
JUDGE

October 30, 2006.
**mohinder*